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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q87626

Kaoru OKAKURA, et al.

Appln. No.: 10/533,310

Group Art Unit: 1646

Confirmation No.: 2360

Examiner: Iqbal Hossain Chowdhury

Filed: April 29, 2005

February 7, 2006

For: NOVEL CELLULASE RESISTANT TO SURFACTANT

**REPLACEMENT RESPONSE TO RESTRICTION AND ELECTION OF SPECIES
REQUIREMENT**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This REPLACEMENT RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENT is meant to replace the paper that was filed on January 27, 2006. In this replacement paper, the elected Group and elected species remain the same, but it is clarified herein that the election is and was intended to be made with traverse, for reasons explained below.

In response to the Restriction and Election of Species Requirement dated December 29, 2005, Applicant elects Group I, claims 1 - 5, 10 and 11, drawn to an isolated polypeptide

REPLACEMENT RESPONSE TO RESTRICTION AND ELECTION OF SPECIES
REQUIREMENT

U.S. Application No.: 10/533,310

Attorney Docket No.: Q87626

cellulase and a composition containing the same, for examination. This election is made with traverse, as explained below.

(1) International Preliminary Examination Report (IPER)

It is noted that the corresponding PCT application was concluded to meet the requirements of unity of invention in the IPER (see the English translation of the IPER that was filed July 11, 2005).

(2) Special technical feature under PCT Rule 13.2

The cellulases of the present invention [i.e., group I], including a cellulase of SEQ ID NO: 3 [i.e., group (A)], a cellulase of SEQ ID NO: 4 [i.e., group (B)], and a cellulase of SEQ ID NO: 5 [i.e., group (C)], are novel modified polypeptides derived from the known original cellulase NCE5 of SEQ ID NO: 1 (see page 3, lines 2-8 of the present specification). The cellulases of the present invention have advantageous effects, that is, are resistant to surfactants and exhibit a higher activity under alkaline conditions, in comparison with the original cellulase NCE5 (see page 21, lines 10-7 from the bottom of the present specification). Therefore, Applicant respectfully submits that the cellulases of groups (A)-(C) share a "special technical feature" which makes contribution over the prior art.

REPLACEMENT RESPONSE TO RESTRICTION AND ELECTION OF SPECIES
REQUIREMENT

U.S. Application No.: 10/533,310

Attorney Docket No.: Q87626

Further, the polynucleotides of group II encode the cellulases of group I having the above "special technical feature", and the methods of groups III-IX are characterized by use of the cellulases of Group I. Therefore, Applicant respectfully submits that the Groups I-IX share the same or corresponding special technical features which make contribution over the prior art.

Accordingly, it is respectfully submitted that the restriction requirement should be withdrawn.

The Examiner has further asserted that the application contains claims directed to three (3) distinct species, and the Examiner has required the Applicant to elect a single disclosed species for purpose of the initial examination.

In response to the election of species requirement, Applicant elects Species (A). protein SEQ ID NO: 3 or nucleic acid encoding SEQ ID NO: 3; claims 1 - 2 and 6 - 21 are readable thereon.

The Examiner has also noted (at pages 5 - 6) that the restriction requirement makes restriction between product claims and process claims, and Applicant appreciates that the Examiner has recognized the possibility of rejoinder of the process claims under the provisions of MPEP 821.04.

REPLACEMENT RESPONSE TO RESTRICTION AND ELECTION OF SPECIES
REQUIREMENT

U.S. Application No.: 10/533,310

Attorney Docket No.: Q87626

Applicant submits that if any of the elected claims are found to be allowable, claims dependent therefrom should similarly be considered allowable in the same application.

Applicant also reserves the right to file a Divisional Application directed to any non-elected claims that might not be rejoined.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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Date: February 7, 2006